

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 04-0429P  
Individual Income Tax  
For the Calendar Year 2003**

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**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

II. **Tax Administration** - Interest

**Authority:** IC 6-8.1-10-1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The negligence penalty, underpayment penalty, and interest were assessed on the no-remit filing of an individual income tax return for the calendar year 2003. As the funds available to pay the 2003 tax were not in the Department's possession until February 2004, the taxpayer is only protesting the negligence penalty.

The taxpayer is an individual residing in Indiana.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer argues the penalty should be waived as there was an overage in the 2001 tax account, and, there was miscommunication from the Department.

The Department agrees. The penalty will be waived as there was miscommunication from the Department, and, the funds were in the Department's possession at the due date of the 2003 return.

**FINDING**

The taxpayer's penalty protest is sustained.

II. **Tax Administration** – Interest

Interest may not be waived according to statute. IC 6-8.1-10-1.